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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/895,569	06/29/2001	Dimitri Papamoschou	3859P002DR	6929

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EXAMINER

CASAREGOLA, LOUIS J

ART UNIT	PAPER NUMBER
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3746

DATE MAILED: 11/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/895,569

Applicant(s)

PAPAMOSCHOU, DIMITRI

Examiner

Louis J. Casaregola

Art Unit

3746

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) 2,3,6,8,10,11,13,29-34 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14-19,28,35 is/are allowed.
- 6) ☒ Claim(s) 1,4,5,7,9,12,20-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

### ***Restriction Requirement***

This case constitutes a Request For Continued Examination (RCE) of Application 09/895,569, and all provisions of the restriction and species election requirements in the '569 Application remain in effect; see Office action of 7/8/02. Claims 2, 3, 6, 8, 10, 11, 13 and 29-34 stand withdrawn from consideration, and a further action on the merits of claims 1, 4, 5, 7, 9, 12, 14-28 and 35 is set forth below.

### ***Rejections – Recapture***

Claims 1, 4, 5, 7, 9, 12 and 20-27 are rejected under 35 USC 251 as being an improper recapture of broadened claimed subject matter surrendered in the application for the patent upon which the present reissue is based. A broadening aspect is present in the reissue which was not present in the application for the patent. The record of Application 08/688,622 shows that the broadening aspect (in the reissue) relates to subject matter that applicant previously surrendered during the prosecution of the '622 Application. Accordingly, the narrow scope of the claims in the patent was not an error within the meaning of 35 USC 251, and the broader scope surrendered in the application for the patent cannot be recaptured by the filing of the present reissue application.

The claimed invention allowed in the '622 application comprises a jet engine with two adjacent exhaust streams distinguished by the fact that one is supersonic and the other is subsonic. This feature was specifically emphasized by claim amendments in applicant's paper filed 11/10/97 for the purpose of overcoming a rejection over prior art; i.e. the cited patents to Wolf et al and/or Hazen et al. The present claims have been broadened to the extent that they now lack a specific limitation requiring that the two exhaust streams are respectively supersonic and subsonic. This broadening of the claims thus constitutes an improper attempt to recapture subject matter surrendered in the application for the patent upon which the reissue is based.

Applicant's latest amendment to claim 1 filed 1/29/04 and entered in the present RCE has been carefully considered. The amended claim language however falls short of actually requiring two streams that are respectively supersonic and subsonic. While the present claim language does require the first stream to be supersonic (claim 1, line 17), it does not require the second stream to be subsonic. The claim merely states that the "velocity difference between the second stream and the ambient stream is subsonic" (claim 1, lines 18-19). This language does not limit the velocity of the second stream but merely the velocity difference between the second stream and an ambient stream. If the ambient stream is fast, as for example in a high speed aircraft, then the second stream could easily be supersonic like the first stream. The amended claim language thus fails to overcome the rejection.

***Claim Rejections – 35 USC 102***

Claims 1, 4, 5, 7, 9, 12, 20, 21 and 25-27 are rejected under 35 USC102(b) as being anticipated by Tiley or Hausmann et al.

The present claims are sufficiently broad to read on conventional jet engines of the type disclosed by Tiley and Hausmann. Attention is called for example to the engine in Tiley's Figure 4; note that engine inlet air is divided into two streams with a first stream flowing within core engine casing 2 and a second stream flowing between casing 2 and outer wall 10. A bypass burner 88 constitutes a mechanism for controlling the temperature of the second stream. Note also that the presence of convergent-divergent nozzle 18 will cause the first stream to be supersonic (at least under some operating conditions). Furthermore, the intended high speed flight operation of Tiley's engine will additionally cause the velocity difference between the second stream and the ambient stream (flight speed stream) to be subsonic regardless of whether the actual velocity of the second stream is subsonic or supersonic.


Hausmann's Figure 7 shows a further engine similar to Tiley's. Note that inlet air is divided into two streams flowing respectively through sections 102 and 118, with one stream flowing through bypass burner 116 and the other stream flowing through a convergent-divergent, supersonic nozzle. Hausmann's engine like Tiley's is intended for high speed flight operation, which will ensure that the velocity difference between the bypass stream and the ambient stream is subsonic.

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***Allowable Subject Matter***

Claims 14-19, 28, and 35 are allowed.

L. J. Casaregola  
571-272-4826 (M-F; 7:30-4:00)  
571-273-8300 FAX  
November 2, 2005

  
**LOUIS J. CASAREGOLA**  
**PRIMARY EXAMINER**

If repeated attempts to reach the examiner by telephone are unsuccessful, the art unit supervisor, Timothy Thorpe, can be reached at 571-272-4444.

Information regarding the status of this application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR, and status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).